

**Memphis and Shelby County
Metropolitan Government Charter Commission**

**Minutes
April 29, 2010
4:00 p.m.**

Commission members present:

Julie Ellis, Chairman
Andre Fowlkes, Vice Chairman
Lou Etta Burkins, Secretary/Treasurer
Damon Griffin
Mayor Richard Hodges
Chris Patterson
Jim Strickland
Dr. Randolph Meade Walker
Rufus Washington

Commission members absent:

J. W. Gibson
Linda Kerley
Billy Orgel
Carmen Sandoval
Richard Smith
Rev. Ralph White

Others present:

Bill Dries, The Daily News
Clay Bailey, The Commercial Appeal
Christy Kinard, Asst. Co. Attorney
Jack Payne, Asst. City Attorney
Kelly Rayne, Asst. to City Mayor
Mayor Sharon Goldsworthy, Germantown
Darrell Cobbins, Rebuild Government
Bill Hawkins IBEW
J.D. Sewell, Mphs. Police Assoc.
Ruth Davis, AFSCME Local 1733
Pearl Gibson, City of Memphis – HR
Rhonda Gillespie, City of Memphis

Patrick Lawton, City of Germantown
Mike Palazzolo, City of Germantown
Stephen Wirls, Rhodes College
Davida Cruthirds
Robert Wherry, City of Lakeland
Scott Sigman, Greater Mphs. Chamber
Brian Stephens, Rebuild Government
Robert Santucci, CWA Local 3806
Rick Thompson, IBEW Local 1288
Matthew Tomek, IAFF Local 1784
Chandell Ryan, City of Memphis
David Upton

The 15th meeting of the Memphis Charter Commission was called to order at 4:09 p.m. after a moment of silence.

Chairman Ellis called the roll and announced there was a quorum (9 present).

Approval of Minutes: Chairman Ellis moved approval of the Minutes of the April 22, 2010, meeting. Commissioner Meade Walker seconded. Commissioners voted aye unanimously. The Minutes of April 22, 2010, were approved.

Administrative Update:

Chairman Ellis: Congratulations to our Chief Administration Officer, Matt Kuhn, who is getting married Saturday; congratulations to Matt and Heidi (Verbeek) and we wish them all the best. He has been an outstanding assistant to us and we wish them every happiness.

Kelly Rayne, City Mayor's Office: No updates.

Christy Kinard, Asst. County Attorney: No updates.

Jack Payne, Asst. City Attorney: No updates.

Metro Charter Commission Speakers Bureau

Comm. Fowlkes - Metro Charter Speakers' Bureau: It was decided to put together a speakers' bureau to help represent what the commission is doing. We heard the concerns of commissioners over the past several weeks about how to get the message out to the community. Many citizens of both Memphis and Shelby County have no idea who we are or what we are doing. We are going to work with several organizations to start talking about what happens in the meetings, educate them as to what the commission is and what the goals and the tasks are. The commission hopes to create a speakers bureau of at least six commissioners. When the commission is approached by organizations to speak about what the commission is doing, those six commissioners can shed some light to audiences. This will be an important aspect of our need to educate the public about what is taking place. Commissioners interested in participating in the Speaker's Bureau should email Comm. Fowlkes or the executive committee.

Human Capital and Customer Service

Comm. Fowlkes took the Chair during Chairman Ellis' Task Force 10 report.

Task Force 10 was asked to look at the human capital and customer service which included human resources, the civil service system, employee benefits, the pension plans, innovation and public assistance services.

The charter requires the maintenance and administration of an effective civil service system; and the consolidation of county and city employee's retirement and pension systems. Nothing in the charter may diminish the rights and privileges of the existing employees under civil service or in the existing county and city employees' retirement and pension systems.

Currently, Shelby County has 6,707 employees; 5,100 of which are civil service. Memphis has 7,235 employees; 6,670 of which are civil service. The combined workforce would be 13,942 with 11,870 being civil service and approx. 1,000 temporary employees. As of June 30, 2010, the county pension fund has a surplus of \$26.8 million. The unfunded liability for Other Post Employment Benefits (OPEB) is \$257,543,000.00 (primarily health costs). The estimated 2010 number of county retirees is 789. The Memphis pension report shows an unfunded liability to retirees of \$449,527,000.00 and as of June 30, an unfunded OPEB of \$934,240,000.00.

Metro Government has to focus on performance as the key to success. The "entitlement" of some employees by the fact that they "own" their jobs is said to impact the ability to change systems, hire the best qualified person and results in decreased services to citizens and increased costs. There should be a move toward productivity, customer service orientation, accountability for results and improved capacity to create and track policies. Metro Government must adopt an "effective civil service system" that has a strong relationship between performance, pay, promotion, job security and recognition. Additionally, Metro Government must ensure that it meets its obligations to retired employees.

Recommendations:

1. The charter shall authorize the creation of a human resource management (HRM) system to be the effective civil service system for all Metro Government employment based on performance, not longevity and which will not tolerate dishonesty, theft or unfair treatment or unlawful discrimination of employees or citizens. In Tennessee, there are only eight systems that have Civil Service Systems with over 10,000 employees. The Civil Service System is not the norm, but the exception. The charter will require the HRM system to include policies for recruitment practices; broad families of job descriptions to allow for flexible hiring and compensation; benefits, training; employee performance reviews; program of paid time off, etc.
2. The charter shall require that the HRM system incorporate best practices of private sector HR organizations such as Fed Ex, Autozone and Methodist Hospitals in order to increase the quality of services provided to citizens by effective and innovative employees.
3. The HRM system shall be led by a chief personnel officer/director to be appointed by the mayor and confirmed by the council and shall have requisite executive level qualifications.
4. The HRM system shall be adopted by the metro council. Amendments to the HRM system will require the support of the chief personnel officer and the mayor and shall require a super majority of the council.

5. The charter shall ensure that employment will be based on qualifications, including education and experience, not political, religious or family affiliation.
6. The charter shall require a system of fair treatment including a grievance system and an employee dispute resolution process wherein an employee may internally appeal to a management committee which will be comprised of Metro Government employees outside the employee's immediate job area.
7. The charter shall provide that all new hires must satisfy required job related screening and be subject to a probationary period of 90 days.
8. The charter shall require a performance-based pay system; performance reviews annually; annual compensation market-based studies including salary and wage range reviews.
9. The charter shall require that the HRM system include best practices to ensure employee retention, leadership and talent development and training. It is anticipated there will be a lot of attrition with the retirement of the workforce (approx. 800 county employees will be eligible for retirement in 2010).
10. The charter shall provide for a total governmental management structure with no more than four levels of management, depending on the size of the managed employee population.
11. The charter shall require a comprehensive policy manual be created and kept current.
12. The charter shall require a bi-annual review of personnel policies, job classifications, staffing, compensation, benefits and employment programs by a full service Human Resource Management consulting firm.
13. The charter shall provide that all employees of the former city and county governments will become employees of the Metro Government without loss of salary. Privileges of existing civil service employees shall be continued. The Charter shall require the appointment of an unpaid civil service board to be responsible for hearing all matters of former civil service employees.
14. The charter shall provide that permanent employee benefits include health benefits, a disability program; premiums similar to the private sector and a retirement benefit program for new Metro employees and non-vested former city or county employees. The Metro Government will make employer contributions for Social Security for each employee and provide a retirement plan which limits employer and taxpayer exposure to investment risk.

15. The charter shall provide for the consolidated administration, regulation and maintenance of a county and city employees' retirement system with every employee governed by the pension rules.

16. The charter shall require that the Metro Government adopt a plan for retiring any unfunded pension liability of the pension plans to further protect retirees; and shall adopt a plan to address the unfunded liability of OPEBs for former city and county employees.

Comm. Strickland: Number 2 -- this "new HRM system will provide the necessary flexibility in decision making to management to ensure Metro Government is empowered to increase quality of service ... Will the new HRM system provide for employment at will?

Comm. Ellis: That is the law in Tennessee.

Comm. Strickland: Civil Service now is not employment at will, so the current system is not employment at will, and you want to turn it into employment at will?

Comm. Ellis: Civil service would be for every employee, so every employee would be employee at will, subject to the protections that are built into the systems and those protections should be available to every Metro employee.

Comm. Strickland: What specifically, other than employment at will, is different between the current Civil Service systems and the HRM system?

Comm. Ellis: Getting to the actual descriptions of -- I don't think you have broad pay systems. There are a lot of difficulties in recruiting and hiring which results in the hiring of temporary employees. Task Force 10 has relied on experts to bring a system forward that would treat all employees the same.

Comm. Strickland: I am against this proposal for a lot of reasons. I have broken them out on policy reasons, legal reasons, and political reasons. 1) We are legally required under the statute to maintain a civil service system. Just because the HRM system is described as an "effective Civil Service System" does not make it a civil service system. A "civil service system" is not employment at will. I would ask our legal staff to give us an opinion whether this HRM system meets the requirements of the state statute to maintain a Civil Service System.

Ms. Kinard: We will provide that to you. We do have a Human Resources attorney in addition to Attorney Payne who assisted the task force. I will give the assignment to them and make sure you get the response back.

Comm. Strickland: It is not in this document that the new system is employment at will and that is an important differentiation that the lawyers need to look at. 2) I think it is bad policy. It is human nature for some elected chief executives to want to appoint

friends and supporters to positions regardless of qualifications. We need fewer appointed positions and not more. We need less flexibility and not more. The Library System is a good example. Every library employee is non-Civil Service; they are all appointed. Mayors have the authority to go in and replace employees with their own supporters. This proposal would require a massive tax increase. The current city pension system is over \$400 million underfunded. Current employees contribute to the pension system and their contribution helps pay for current retirees. If all new employees go to 401(k)s, the current pension system will be grossly underfunded. Unless investments increase significantly, then taxpayers are going to be required to pay. The entire City budget is \$6.01 million. You would have to make up almost an entire City budget to pay for the gap. You have to be realistic and honest with the citizens that if we do this, there is going to be a big transition cost. In addition to being bad policy, it makes for a bad charter. A charter should not be too specific. It should empower or limit publicly elected persons in broad terms. Putting in the Charter that there should be a 90 day probationary period; there should be no more than four levels of management; there should be a bi-annual review of personnel policies -- that is way too specific. I think it is also bad politics. We have all assumed that this charter would pass in the city and our real effort, real challenge would be in the suburbs. If this passes, it gives many people in the city a reason to vote against consolidation when they did not really have one. It calls into question whether it can pass in the city. It is bad politics because if you turn to the first two pages of people who were private sector advisors and public sector advisors, they are management; there is no employee representation. You don't have to listen to everything the unions say, but you do have to listen to them. They were not taken into account. If this passes, they will mobilize and you will have many leaders in the City of Memphis who will come out against consolidation. Maybe we ought to delay this until we hear from the legal staff.

Comm. Hodges: Comm. Strickland, are you saying that under state law, we all have to have Civil Service?

Comm. Strickland: Under a consolidated government, it says we have to provide "for the maintenance and administration of an effective Civil Service System."

Comm. Ellis: There have been such legacy elements to the system that it is hard to fire an employee, so there is this concept that you own the job and you don't have to perform. A Civil Service System is truly just the civil and not the military. Every system has been devised; every one is different. There is no nomenclature as to what is "a civil service system" in Tennessee. The federal service amended its proposals in 1998 and the AFSCME website adopted those federal proposals. All of those federal proposals are included in our recommendations with full protections for employees.

Comm. Strickland: Under Tennessee law, employment at will means that you can be hired or fired for any reason other than federally protected classes, race, religion.

Comm. Ellis: What the mayor or any other political person can do should be defined in the system. What are their appointments? Is he able to bring in his own team?

Department head appointees are not appointments. They are to be hired for their qualifications and they should have the same protections that everybody else does.

Comm. Patterson: This is a very complex issue. An article in the *Memphis Flyer* said "Government exists to provide services, not jobs." Commissioners are encouraged to keep that in mind as this issue is considered. Private sector jobs do not typically provide these sorts of protections that government jobs provide. If government operated like private sector jobs, maybe jobs could be done at a lower cost. Recommendation 13 stood out because it said all employees shall maintain their jobs.

Comm. Ellis: The recommendation that all employees will retain their jobs is not a requirement, but a recommendation. It is required that all civil service employees retain their jobs, but we recommend that all employees retain their jobs and salary.

Comm. Patterson: I wouldn't have a problem removing that and saying there is going to be some reduction in the number of employees of the Metro Government. I like the idea of having the ability to shrink the workforce and shrink the payroll and therefore shrink the property tax.

Comm. Ellis: Attrition through upcoming employee retirements will reduce the number of employees doing the same job (800 county employees eligible for retirement in 2010).

Comm. Burkins: Concerned about Comm. Strickland's statement that if Metro adopted 401(k) system instead of pension, would cause massive tax increases and transition costs. Disturbed that such a statement was made with no data to support it. Did Task Force 10 look at transition costs to going to 401(k)? Would like to see the data.

Comm. Ellis: Actuaries of the city and the county have not benchmarked together. They have never looked at what pension reform might look like. There are plans being looked at for pension reform so that both the city and the county can meet these unfunded liabilities. The recommendation is that a plan needs to be created. If the systems remain unchanged, it just pushes the liability off to another generation.

Comm. Burkins: Is it possible to get some data before making a decision. If there is no data available, then don't act on this proposal.

Comm. Ellis: We were advised that the actuarial cost for doing that analysis of the two systems was very, very high and obviously we don't have money for it.

Comm. Walker: Agrees with Comm. Burkins; needs hard data. Comm. Strickland suggested there would be even more appointments than there are now. That is a sore spot with me. The Library system ought to be structured similar to the school system; based on merit. I am not so concerned with civil service protecting jobs, but want to insure that Metro can get good people for positions as opposed to good old boy appointments.

Comm. Ellis: Every employee should be hired based on qualifications, education, performance and training; the appointee process would go away, except as defined in the system that would be left to the executive function. It would come under the mayor's duties which have not yet been reviewed, but that is where the system would define where appointments could exist, basically in the executive function, reporting directly to the mayor. Confirmation by the council would provide safeguards. Our recommendation is to treat every employee the same. They would be hired on the basis of performance, capability. Every employee would not be "at will", but would be "at will plus" which is what civil service is where you have a grievance procedure and you have a process to be heard.

Comm. Ellis: Task Force 10 got the information that was used to create the recommendations from the managers who run the systems. We looked at the totality of what these private firms (FedEx, Autozone and Methodist Hospitals) do. If you are one of the 100 Best Places to Work, and you have employee sign-off on the system, we felt those employees were happy. FedEx is a great system, a very fair system. I can't imagine every employee in our Metro Government not being happy with being an employee at FedEx. That is the way we approached it. We didn't approach employees in the city and the county because we were protecting every one of their rights. We have been meeting publicly and we did not specifically invite the unions, but they did join the task force meeting today and we asked them to give us their concerns, have gone over some of the language. This is not charter language. This is guidance material of where we might move the charter.

Comm. Hodges: Agrees with Comm. Strickland that both mayors have too many appointment authorities. Mayor should appoint those directors that would report directly to him and not 50 library appointments. The City of Millington just took over the USA Baseball Complex. The director was making a good salary from the telephone company to manage it. Millington does not have the funds to pay the director what he had been getting. As mayor, I wanted to set up a system with a basic salary and if the director produced and reached certain goals, he would get more money. Apparently, you cannot do that in government. You hire an individual, pay a salary whether they produce or not. There ought to be some checks and balances in the new system where employees that produce, somehow are taken care of. There are many reasons to limit the number of mayoral appointments.

Chairman Fowlkes: Comm. Strickland brought up a couple of concerns relative to the recommendations. Many commissioners seem to be looking for clarity on the Civil Service, or an "at will", arrangement. Commissioners are also looking at the unfunded liability of the pension plans; finding out more data relative to that may help commissioners in determining what will affect taxpayers. There is some concern about the language brought up by Comm. Strickland with regards to "bad policy" and "bad charter" and "bad politics" when we don't have all of the data present. When looking at what goes in the charter -- what is proposed here is not necessarily how it will be written in the charter; it is for people to get an understanding of what we are talking about and

then go to the writing committee to put down the legal jargon of what will be worded in the charter document. With regard to labor relations, dealing with unions and also reaching out to those organizations relative to the task force, it comes down to a factor of losing trust and fear of the unknown. There are a lot of questions about what Task Force looked at, but the bottom line comes down to what will happen in future, who can be trusted? It would be my recommendation to table this recommendation for a future meeting. There are some strong objections, but there are also some people in favor. Since there are not as many commissioners present today as we normally have, it seems that if we were to start voting on it, it would still come up at some point in the future.

Comm. Burkins: I would recommend that if there are some recommendations that we can approve today, that we approve those. That way, we won't have so much to follow up on, especially considering all of the task force reports that are scheduled for next meeting. If we don't move forward with as many of these recommendations as we can, we are really going to get into a crunch in getting information to the writing committee. We already have a very tight timeline.

Comm. Fowlkes: Although I do agree from a time standpoint, I am curious as to what -- when we get back the requested data with regards to the "at will" and civil service, how will that impact the other recommendations.

Comm. Ellis: I think the whole system is based on an "effective civil service system". The task force had legal counsel in coming up with these recommendations of what would be an "effective civil service system" and it has all of the metrics and the protections.

Comm. Patterson: This legal opinion is going to be challenging in that we have started using this phrase "civil service system" as a model, a framework that exists by itself, when the Chairman seems to be saying that it is almost an adjective to define what government has to have, some form of "civil service system." To go through the recommendations and say yes to one and no to two --my understanding of what the recommendations are is that these are themes and ideas that should be included in the civil service system included in the charter and adopted by the Metro Government that will be called HRM. I am not sure that "civil service system" has a real definition. I don't know what a vote would be except whether to adopt these recommendations as themes and ideas that should be woven into the civil service system.

Comm. Ellis: We have committed to the union representatives that we are willing to meet with them on any concerns with respect to the language which is not necessarily charter language, but it would have themes and we did go over the AFSCME adopted principles which are included in the recommendations. Maybe Task Force 10 can continue refining what will go to the writing committee and continue to work with the groups that are interested.

Comm. Patterson: Historically, we have been very deferential to what the task forces have brought forward and almost taken for granted that they have done their homework and I would encourage us to do the same in this situation, absent a specific request for specific information. If someone wants to know how much it would cost to fund an unfunded liability and what the impact would be on the tax base, that is a reasonable.

Comm. Ellis moves approval of Task Force 10's recommendations with the understanding that they will continue to work on refining language that may be of concern to the employee base of the current City and County systems. Seconded by Comm. Patterson.

Chairman Fowlkes: We are going to move ahead to approve -- are we pulling anything out of this approval? There are still those key elements that we were trying to get more clarity on.

Comm. Ellis: I will amend the motion to approve with the continuity of meeting with the employees, continuing to refine the language and to eliminate the recommendation with respect to a "defined benefit plan." But I would like to leave in the recommendation that the system has to address how new employees will be treated, but without a precise recommendation which would leave the system to develop it.

Chairman Fowlkes: There is a motion to approve with those caveats and we have a second.

Comm. Walker: This is still a comprehensive approval. I understood that Comm. Burkins wanted a line by line type of approval. I still have some very serious problems with number three and I cannot support all of the recommendations with number three in its present form.

Chairman Fowlkes: For the best interest of the commission, we need to table the entire proposal.

Comm. Burkins objected to tabling the entire proposal. We need to move forward. If we cannot move forward on a line by line basis, then we need to move forward with the caveats provided by Comm. Ellis.

Comm. Ellis: We will continue to work on the language regarding pensions and clarifying language and working with the employees and certainly the commission on any language with which you have concerns. We would continue to do that and bring that back as additional information to the commission.

Comm. Walker: It is not so much the language of Recommendation 3, but the structure. I am uncomfortable because of the situation that Comm. Strickland brought forward about the number of appointments the mayor would have. I don't think the HRM director should be an appointed position. The HRM director should have autonomy to be fair and impartial.

Comm. Patterson: It appears that this is the first department head that would not be appointed by the mayor. It is my understanding that under the general framework, department heads would be appointed by the mayor, and confirmed by the council, so it would not be a unilateral appointment.

Comm. Walker: I am asking that this position be unique. When dealing with the functions of government, people's lives, people's employment, service to the community, unless we are going to go through and really redefine some of the positions that currently are appointed, I cannot support this as it is.

Comm. Patterson: This would be the highest office in government that was not elected or appointed?

Comm. Ellis: I think Commissioner Walker is concerned about the misuse of appointees today. It should very clearly be specified in the system that the director or department head would have to adhere to the guidelines of the system. How many appointees is that mayor going to get? Does the mayor only appoint his direct reports which are the department directors? That is the way we have set it up. We approved that general language that all department heads would be presented by the mayor to the council, which is a safeguard that many cities don't have. In the proposal, we have included what the critical proficiencies should be for those senior officers. That is something we will tackle when we get to the executive branch, of whether we should put in requirements that bind the mayor to a certain caliber of performing director. It is expected that we will have professional management to come in and run our Metro Government.

Comm. Walker: If that is part of the executive, I will support it.

Body unanimously voted aye.

Chairman Ellis retakes the Chair (5:41 p.m.)

Items of Discussion for Next Meeting, May 6

Chairman Ellis: Commissioner Strickland may not be ready to resume the Legislative Task Force report. Economic Development Task Force with Comm. Orgel giving the report should be ready for next meeting. Comm. Gibson is expected to give the Finance and Accountability task force report.

Comments from the Public and Organizations

Bill Hawkins, Assistant Business Manager, IBEW Local 1288. My hat is off to this commission for hiding what is going on in Task Force 10 from the employees of

Memphis and Shelby County Governments. We found out about this issue because we were given a tip from an outside source. I heard a number of things in the chairwoman's presentation. She talked a lot about Federal Express. Federal Express has approximately a 70% turnover rate of employees. Memphis and Shelby County Governments have about a 3% turnover rate. There is anecdotal data that indicates "at will" employment is not what employees want. You are going to take away the rights of employees to have a fair and equitable grievance and arbitration process by replacing that with what this committee is proposing. You are going to disincentivize employees, long term employees from having to stay here. You are going to change the turnover rate from 3% to around 70% as in the private sector. There is anecdotal evidence that 401(k) plans can be risky for employees. Would like to ask this commission, according to Tennessee State law, you have to fill out financial disclosure statements if you are an elected or appointed official. Has every one here filled out those financial disclosure statements out? I would like to read those statement and see exactly your interests are; to see if they conflict with what this commission is doing.

Chairman Ellis: All were required to fill out the disclosure forms and they are on file with the mayor's office or with the Commission.

Mr. Hawkins: I cannot find them on the internet. I cannot find them in the mayor's office. They must be hidden. Does this committee meet every Thursday? I have a video camera here and we are going to expose this stuff, what is going on in this charter commission, and this Task Force 10. We are going to let people know what is going on here and you are not going to be able to get away with this stuff, pass it through the night, to think you can do what you do behind closed doors and not have this known as a public meeting. This is a state law that you have to have "sunshined". I don't know where these meetings were advertised at? We certainly couldn't find it and we only got here because of a tip we received.

Comm. Patterson: Sir, would you mind answering questions? I appreciate the insults to the commission. I can assure you that all of the meetings have been "sunshined" and they have been on the website. I am sorry you have not seen them. Other people from the public have made it, as well as elected officials. I can assure you that all of the task forces have worked tirelessly to attempt to put together a system that addresses concerns of not just management, but also the employees. I would hope that you would come back and I would hope that you would show your video to your union members and participate in the remainder of our work. We have sought input from every source that we can think of locally. There has been a concerted effort to get as many voices heard as possible. I am sorry that you did not hear about it or were not able to participate, but everything is being done in as open and public a forum as possible. Fundamentally, you know this stuff better than me, so I would ask you, since you are here in behalf of your union, what is it about the government job that deserves more protection than an equal job in the private sector?

Mr. Hawkins: In your report (on page 5), the entitlement of certain employees by the fact that they own their jobs. I don't know anybody that feels like they own their job that

works for the government. We have good employees who come to work everyday. They don't abuse sick leave. They love working for Memphis and Shelby County Government. We have MOUs that govern the relationship between unions and the city and county governments. Nobody that I know feels like they own their job. In fact, we have long term employees that have been there for over 40 years. They are dedicated, good people. And the fact that in the private sector -- an example -- the turnover rate at Federal Express is astounding. If you are going to use Federal Express as a model for Task Force 10's recommendations -- every time I go to an Autozone store, there are new people. There is such a high turnover rate. Because it pays so low, the benefits are terrible, if there are any benefits at all, people don't want to go to work to places like that. They want to go to places where it is stable; where they can provide for their families and do so without fear of having to worry about whether they are going to lose their jobs or not. Even though Federal Express has the highest number of employees in Memphis and Shelby County, but they also have a very high turnover rate. I was not trying to insult this commission, but the fact is you have done a very good job of -- had we not received that phone call that this was going to go down today, we wouldn't have been able to be here because we did not know about it.

Comm. Patterson: I appreciate your coming in and expressing your thoughts because this is what we have been looking for. There is at least one article every week in The Commercial Appeal and The Daily News about our meetings and when we meet and there are links from the city and county websites. In previous meetings, we have spent some time talking about how we can get the word out in a better way. Do you see, on behalf of your union, a fundamental difference between a job with a government that merits a greater protection than the same job in the private sector?

Mr. Hawkins: I don't know how I can answer any differently. Employees who work for city and county governments feel like there is more job security there.

Comm. Patterson: I believe that.

Mr. Hawkins: They feel there is more of an opportunity to provide for their families. Civil Service employees are not going to be rich people by working for civil service. They are not going to become millionaires. They are good people. They make a decent wage to provide for their families, but they are not going to get rich doing it. But they are there for the security and I think the security is the overriding factor over the private sector. You may be able to work for Federal Express for a few years, say 10-15 years, but the fact is that you could be walked out of the door tomorrow and if you don't have the protection of a labor agreement of some sort, you are in a right to work state and the only right you have is the right to quit and the company can fire you at will. There are a number of people that work in the private sector that are not happy; they would love to work for Memphis and Shelby County Governments. When I looked for it on the website or in The Daily News, I could not find notification of these meetings. The fact of the matter is that when you have votes like this, that go down like this -- I wish Councilman Strickland was still here because he brought up a very good question -- an unfunded tax on the citizens of this metro form of government is going to doom it from

the very beginning. Nobody is going to vote for a massive tax increase to be placed on their household, something like a property tax, for example, so suddenly your house payment is going to double because of a massive tax increase that was levied on the taxpayer. We are just not going to do that. I know people who are not going to vote for something that is going to increase their tax liability. There are people who are losing their jobs everyday and their benefits are being cut or costs being increased. Maybe the vote was taken prior to input from the public today as part of a design, but there has never been anybody from this commission reaching out to the public sector employees that were going to be effected by this, to ask for our input until after you have already built the car, painted the car, put the window sticker on the car, and then you ask for our input to decide what color do you like after you have already painted it and it is getting ready to be sold to us. That is not right. That is not fair representation. This is going to create a tremendous burden on the taxpayers of Memphis and Shelby County if this is passed.

Comm. Griffin: What is going to cause the large tax increase?

Mr. Hawkins: The unfunded liabilities. For example, the pension funds are both underfunded. Essentially, when Nashville-Davidson County merged, the assets and the liabilities of each government then become one. When you merge those two governments together, you are going to be taking the unfunded liabilities of the city and county governments, putting them together, and making that one large unfunded liability. There was not too much talk about the GASB unfunded liability in this and I am sure it is because you didn't want to put another large number out there. But currently, the City of Memphis has about a \$600 million liability hanging out there. I don't know the number for Shelby County, but those actuarial reports are out there. If you take those actuarial reports from Memphis and Shelby County and you add those liabilities together, you are going to have a liability in the billions of dollars, probably between \$1 and \$2 billion of unfunded liability that is going to have to be met. This government cannot be put together as a metro form of government without taking on those liabilities under one umbrella. Right now, those liabilities out there were put together by actuaries, but that was under the model of Memphis and Shelby County Government. If you don't have a plan to take care of that issue, then you don't have a plan going forward other than the fact that you are going to have this large unfunded liability and you are going to have to raise those taxes on your citizens in order to pay for that liability.

Chairman Ellis: Councilman Strickland dealt with our proposal for new employees going to a defined contribution plan and the vote of the commission was to remove that because we didn't have the information. We are not affecting, and the commission has nothing to do with the unfunded liabilities that exist today. Those have been created by the city and the county. What the commission did suggest was that we have to require our new metro government to address that. We were doing everything to protect the current employees from no action to deal with those liabilities that exist today.

Mr. Hawkins: Madam Chairman, I disagree because you have done everything possible to exclude the very people who represent city and county employees until the 11th hour, after the vote was cast and then you ask [sic], well, we are going to change the language; we are going to modify the language. You are asking us for our input after you have already done something.

Chairman Ellis: We voted this out only for purposes of continuing the writing and the effort with a total commitment to work with your union and anyone else on the language. That commitment is enforced in our passage of the motion and we will honor that. The totality of the proposal is what we are moving forward on. The car is not built. The car won't be built and it won't drive out of the driveway until August 10.

Comm. Burkins: Basically, we are approving recommendations to go to our charter writing committee who will draft the language for the total charter. We have an outline for three dates for public hearings and we also have time that we have allotted that after the public hearings, we will make revisions, if recommended, to the total charter. All of our meetings have been public and we welcome comments. Everything is not in stone, the recommendations that we are making and are approving are not in stone. They are for the purpose for the writing committee to draft the charter. We cannot wait until we approve everything before they start writing. We have to give them some guidance to start writing the charter.

Mr. Hawkins: Thank you for making my point because now that the car is already been built, now you are going to send it over to the other assembly line and you are going to say, "this is what we came up with, this is our recommendation." We built the car, we painted the car, here is our recommendation; what do you think of it after all of the basic work has been done? You are under a deadline of August 2010. For something to be rejected by the writing committee, could be sent back to committee, I don't think that is real feasible because of your deadline you are under of August 2010. You have already approved the language and you have already sent it over there. If the writing committee were to reject that language and send it back to committee, chances are you would not be done by August 2010. Chairman Ellis: I think we have a system in place that we will include all public comments. We will include all of your suggestions and the writing committee will get it done and we will meet our deadline. We are committing to that. I do want you to know that in our process with our task forces, we have city and county counsel advising us. They also have helped us collect the resources that we have used. In so doing, we requested information on the labor MOUs and we requested precise questioning of whether or not our inclusion of a labor relations piece in the charter was advised and would that meet the obligations of dealing with the unions' interest and we were advised that it is above and beyond what is in the charters today and therefore, they believed it would. Having you all look at the language with us is very important. That offer is there and we will continue to meet with you. We will take advice. We will hold meetings with you. We will sunshine them and we will continue to refine the language. I think you made a good point on a management committee. That is something that no one raised in the nine meetings that we have had. That is something that we want to take under advisement and continue to look at with you.

Mr. Hawkins: When you mention the word management committee, and it was in your document here also, that is exactly what is wrong with these recommendations of Task Force 10. You have gone to the management of the city and county governments. You have gone to the management around these other benchmarking companies that you went to. But you never once asked for the employee input until after all of this work was done, until today. So, that is why I would recommend, my suggestion for the record, is to send everything back, start over, have equal representation from the employees. Start all over again because now that you have already built the car, it is going down the line. It is going to hit the dealership out here pretty soon, and we had no input whatsoever. Now you are asking us for some suggestions and more of our input after you have already taken the vote and passed something. A management committee is never, ever going to be fair and equitable like a grievance and arbitration process.

Comm. Washington: Mr. Hawkins, you made some comments about nobody knowing about the meetings. You made some comments with respect to you couldn't find any information. I chaired the public safety task force that began meeting January 26. We met every Tuesday and there are some people in this office that know I invited representatives from each of the entities that I was going to take a look at. We also asked those representatives to make certain that union representation was also invited to the meetings. There was union representation at some of the meetings, but I was assured that they had all been invited and they had opportunity also to speak at those meetings, because I had a public forum. We have a representative here from The Commercial Appeal who can vouch that it was done at the meeting. It was not done in the dead of night; it was not done behind closed curtains. It was done in a public building and it was done in the mornings. I am upbraiding you, but I am bothered when statements are made that "I am going to make certain that people are informed about what is going on here and how you are operating." Please make sure that you present the facts.

Mr. Hawkins: And when we take our video tape and we show it to our union membership -- Let me ask you a question, sir. Would you rather us video tape, or would you rather have 10,000 people down here in these chambers. We video tape that so that people can see what happens in these public meetings, in these forums, so that they can get it. Essentially, we are not handling this through the grapevine. We are bringing the grapevine to them so they can see the grapes grow; so they can see exactly how they are being fertilized and what is going on. If you did all of that with your task force, that is good, but Task Force 10 didn't do that. Task Force 10 asked for input only after you had a 2:30 meeting today and that is when input was asked for. When the citizens of Memphis and Shelby County look at the unfunded liabilities that are going to have to be assumed by the metro government, they are going to be very alarmed.

Chairman Ellis: Those unfunded liabilities in those facts are the fact today. It is not the commission's doing. The city and the county have to deal with that regardless of consolidation. That is a red herring and you need to be concerned about how it is dealt with, whether it be by the city, the county or a metro government. We raised it as a

point of order so that people do know. Even though the combined unfunded liability is a large one, it is not going to go away if we don't do a metro form of government. What Comm. Strickland addressed was the proposal that we deal with that unfunded liability with respect to new employees. We took that off the table, so that whole comment of Councilman Strickland's is no longer applicable.

Comm. Fowlkes: It seems that a lot of time when we provide these recommendations, people are assuming we are coming from an ideal world out there. We are providing recommendations that we think will better the community altogether. My suggestion to the public in general is to come forward. We have been talking about consolidation now going back to -- we went into effect in November, but it had been talked about even before that with Mayor Wharton going throughout and talking with people concerning this issue. People don't want to know about consolidation because people are not taking an interest in their government. People will show up for isolated incidents; there are only a select few who come here every single week and we see the familiar faces providing valuable input and are a part of the process. We would hope that more people would take a valuable interest in what we are doing, because yes, it can effect how you are going to be going down the road. Of course, there is an argument here with regards to what is made public, what is not made public. We are doing things covertly here. I assure you we are not because we are appointed people. We went through filling out paperwork; we had to go through an interview process and we are using our own valuable time as citizens. We are just regular people. We are not elected officials. We are not up here to gain an agenda on you or do anything of that nature. There is no good in hiding anything from you? Could we do better? Yes, we could always do better. We can do better by having people get involved with us and give us their opinions and give us their view points with regards to what they would like to see in a consolidated government. Is everybody going to be happy? No, but it is very important to get people working together and now just showing up for particular pieces of what we are doing. The problem that I see is that a lot of people will make their decision based on what particular recommendation and not look at the whole body of work that we are putting together. To me, the system is working fine because, as you can see, we have people coming up here who are voicing their opinions against what we are doing. And do not forget that this all comes to a vote come November. It just won't get passed if people don't want to see it. So, there is a checks and balances. Task forces meet, they bring it to the commission. The commission makes their decisions. We open it up for the public to talk to us. We have always welcomed public input. We encourage you from this point forward to now bring things to us. If you go and speak to your unions, bring back the feedback on how to make that document better. And that is what we will do. You said we don't have enough time to do it, but that is our job. We have to do it or it won't get passed. You just won't vote for it.

Comm. Walker: Comm. Strickland said we were operating under the assumption that the main opposition to consolidation was going to be from the suburbs. I think your perspective, Mr. Hawkins, has opened up the possibility that that is no absolutely true; we have to consider also that Memphis citizens are not going to be automatically on board with consolidation. I do think that we cannot assume anything. By the same

token, I think that maybe some statements were made that we assume that the private sector is better able to assess an employee's performance and therefore take commensurate measures as far as raises and promotions and terminations. I don't take that view. I worked for General Motors for 15 years and we had some of the most idiotic decisions made in management. I don't necessarily buy into that private sector has everything right. At the same time, I don't think government has everything right either. We have got to work for where we can find the best solutions. There will be other opportunities for input. We have other committees that will be coming that we will be able to refine this thing. So, I invite you. Don't write us off. Don't throw us away. Come and work with us. We need your input. You have already made a valuable contribution today and I want to invite you to come back. We need to hear your perspective.

Mr. Hawkins: Thank you. I am not here by myself. There are other labor leaders here in this room today to inform their memberships of the various locals exactly what is going on and what Task Force 10's recommendations are.

J.D. Sowell, Memphis Police Association: Public work versus private work. Public work is not owned by a man who created a company and owns it and it is his livelihood and he wants to make sure it is the best. It is run by a politician, the mayor and if it is a great mayor, then everything is great. If the mayor is a bad one, he is a politician. I am going to give you an example -- a lieutenant who did everything by the book, followed the rules and regulations and got involved with a patrolman. The patrolman was politically connected, but it became a racial issue and the mayor said, I want him fired. We had a director that said we have rules and regulations, civil service, so that director was fired. We got a new director and that director fired the lieutenant. The lieutenant did an appeal process management committee and he was fired because the mayor wanted him fired. He went to civil service, he got his job back. He also went to federal court and got a lot of money because of all of the humiliation and the public outcry and that type of stuff because a politician wanted him fired and the safety net was there of civil service. Now management committee is still management. Civil service is a safety net for those who are wrongfully terminated.

Chairman Ellis: We did put in our recommendations that political -- they could not be part of the grievance system. That line is in there, but it does need your additional advice and all of the other union advice to get the grievance procedure correct, so that the civil service system, as you define it, is clear.

Other Business

Congratulations to Mayor Goldsworthy of Germantown upon receipt of the highest public service award in the area, the Bobby Dunavant Award, from the Rotary Club.

Adjournment

Meeting adjourned at 6:21 p.m.